

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 19-1031V

UNPUBLISHED

BILINDA ANDERSON,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: December 29, 2022

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Influenza (Flu) Vaccine; Shoulder  
Injury Related to Vaccine  
Administration (SIRVA)

*Maximillian J. Muller, Muller Brazil, LLP, Dresher, PA, for Petitioner.*

*Alexa Roggenkamp, U.S. Department of Justice, Washington, DC, for Respondent.*

### **DECISION AWARDING DAMAGES<sup>1</sup>**

On July 17, 2019, Bilinda Anderson filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza (“flu”) vaccine administered on September 12, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 23, 2022, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On December 28, 2022, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded (a) a lump sum payment of \$65,000.00, representing compensation for actual pain and suffering; and (b) a lump sum payment of \$6,383.00, representing compensation for satisfaction of

<sup>1</sup> Because this unpublished Decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

the State of Maryland Medicaid lien. Proffer at 1-2. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner:**

- A. A lump sum payment of \$65,000.00 in the form of a check payable to Petitioner; and**
- B. A lump sum payment of \$6,383.00, representing compensation for satisfaction of the State of Maryland Medicaid lien, payable jointly to Petitioner and**

**The Rawlings Company  
ATTN: Bethany Gardner  
Reference No. 115353396  
P.O. Box 2000  
La Grange, KY 40031-2000**

Petitioner agrees to endorse this payment to the Rawlings Company for satisfaction of the Medicaid lien.

These amounts represent compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**  
Brian H. Corcoran  
Chief Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
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BILINDA ANDERSON,

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SECRETARY OF HEALTH AND  
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Respondent.

No. 19-1031V

Chief Special Master Corcoran

ECF

**RESPONDENT’S PROFFER ON AWARD OF COMPENSATION**

On July 17, 2019, Bilinda Anderson (“petitioner”) filed a petition for compensation (“Petition”) under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that she suffered a shoulder injury related to vaccine administration (“SIRVA”) in her left shoulder as a result of an influenza (“flu”) vaccine administered on September 12, 2017. Petition at 1. On December 23, 2022, the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 43.

**I. Items of Compensation**

A. Pain and Suffering

Respondent proffers that Bilinda Anderson should be awarded \$65,000.00 in actual pain and suffering. *See* 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

B. Medicaid Lien

Respondent proffers that petitioner should be awarded funds to satisfy a State of Maryland Medicaid lien in the amount of \$6,383.00, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of Maryland may have

against any individual as a result of any Medicaid payments the State of Maryland has made to or on behalf of petitioner from the date of her eligibility for benefits through the date of judgment in this case as a result of his alleged vaccine-related injury suffered on or about September 12, 2017, under Title XIX of the Social Security Act.

The above amounts represent all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

## **II. Form of the Award**

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner be made through two lump sum payments as described below:

- 1) A lump sum payment of \$65,000.00 in the form of a check payable to petitioner.<sup>1</sup>
- 2) A lump sum payment of \$6,383.00, representing compensation for satisfaction of the State of Maryland Medicaid lien, payable jointly to petitioner and to:

The Rawlings Company  
ATTN: Bethany Gardner  
Reference No. 115353396  
P.O. Box 2000  
La Grange, KY 40031-2000

Petitioner agrees to endorse this payment to The Rawlings Company for satisfaction of the Medicaid lien.

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

C. SALVATORE D’ALESSIO  
Director  
Torts Branch, Civil Division

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<sup>1</sup> Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future lost earnings and future pain and suffering.

HEATHER L. PEARLMAN  
Deputy Director  
Torts Branch, Civil Division

DARRYL R. WISHARD  
Assistant Director  
Torts Branch, Civil Division

/s/ Alexa Roggenkamp  
ALEXA ROGGENKAMP  
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DATED: December 28, 2022